

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

United States of America

v.

Xiao-Jiang Li

Criminal Action No.

1:20-CR-164-AT

United States' Sentencing Memorandum

The United States of America, by Byung J. Pak, United States Attorney, and Samir Kaushal, Assistant United States Attorney for the Northern District of Georgia, files this Sentencing Memorandum to assist the Court in sentencing defendant Xiao-Jiang Li. The government recommends that Li receive one year of probation, with six months' home confinement. The government also recommends that the conditions set forth in paragraph 20 of the Plea Agreement be included as special conditions of probation.¹

For at least six years, from 2012 to 2018, Li, a professor at Emory University, provided false income information that excluded his foreign income from his federal income tax returns. In late 2011, Li joined China's "Thousand Talents Program," a Chinese state-sponsored talent recruitment program. Li was appointed as a research team leader at

¹ The criminal information arose from a grant fraud investigation. The criminal complaint charging Li with grant fraud, in violation of 18 U.S.C. § 666(a)(1)(A), is attached as Exhibit A.

the Institute of Genetics and Developmental Biology at the Chinese Academy of Sciences (“CAS”). According to a letter, dated January 21, 2019, authored by Jing Wang, a Human Resources director at CAS, Li worked at CAS conducting research from January 2012 until December 2016. (January 21, 2019 CAS Letter, attached as Exhibit B.) During this time, the letter states, Li received a salary. None of that salary was declared or included in his United States federal tax returns.

In January 2017, Li transitioned from CAS to another Chinese University, Jinan University, where he continued to conduct research. According to a letter, dated January 22, 2019, authored by Bing Wang, a Human Resources director at Jinan University, Li conducted research at and received a salary from Jinan University from January 2017 until October 2018. (January 22, 2019 Jinan University Letter, attached as Exhibit C.) Like the salary Li received from CAS, he reported none of this income on his United States federal tax returns.

Based on the letters received from the Chinese Universities, the following tax loss estimate was reached, taking into account the possibility that had Li truthfully completed his United States federal tax returns he likely would have been eligible for a foreign tax credit for taxes paid in China. As shown in the chart, the estimated tax loss is \$35,089.44.

Tax Loss Estimate

Tax Year	Total Payments (Before Tax)	Assumed Marginal U.S. Federal Income Tax Rate	Potential Gross Incremental U.S. Federal Income Tax Liability	Less: Foreign Tax Credit for Chinese Taxes Withheld (26.02%)	Potential Net Incremental U.S. Federal Income Tax Liability
2012	62,597.81	33%	20,657.28	(16,287.95)	4,369.33
2013	64,516.13	33%	21,290.32	(16,787.10)	4,503.23
2014	63,897.76	33%	21,086.26	(16,626.20)	4,460.06
2015	127,810.94	33%	42,177.61	(33,256.41)	8,921.20
2016	110,649.43	33%	36,514.31	(28,790.98)	7,723.33
2017	39,813.55	33%	13,138.47	(10,359.49)	2,778.99
2018	33,428.32	33%	11,031.35	(8,698.05)	2,333.30
Total	\$502,713.94				\$35,089.44

Based on the above estimated tax loss, the parties reached the Guidelines Calculation identified in paragraph 15 of the Plea Agreement, which places Li in Zone B with a Custody Guideline Range of 6 to 12 months.

Respectfully submitted,

BYUNG J. PAK

United States Attorney

/s/ SAMIR KAUSHAL

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